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SUBJECT: CORRUPTION IN MONTENEGRO

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¶1. (SBU) SUMMARY: Few countries in Europe have as bad a reputation for fighting corruption as Montenegro. As in other transition societies in this region, egregious weaknesses include extensive cronyism and nepotism, weak controls over conflicts of interest, perceived legal impunity for individuals linked to the ruling parties, and the failure of the judicial system to effectively and consistently punish corrupt officials.

Montenegro is by no means a lost cause, however. The GOM has put in place a legal framework that has generally been praised by the EU; it has established a high-level commission to monitor progress; and there has been an increase in arrests and investigations in recent months. Moreover, allegations of corruption are publicly and prominently aired by NGOs and in the national media -- coverage that has prompted the authorities to act in several recent cases. Nevertheless, as Montenegro draws increasingly closer to the EU and NATO, it will have to strengthen its record in coming years -- particularly in the enforcement area -- if it is to pass muster for full membership.

END SUMMARY.

Corruption: The General Picture

¶2. (SBU) The nature and extent of corruption in Montenegro is difficult to quantify, but a variety of reporting indicates that corruption occurs at most levels of government. Numerous international surveys have pinpointed corruption as one of Montenegro's most serious challenges. Transparency International's "Corruption Perception Index" ranks Montenegro with Serbia and Albania, and slightly behind Macedonia, Romania, and Bulgaria (but ahead of Bosnia). Freedom House's "Nations in Transit" ranks Montenegro ahead of only Kosovo in the region. Global Integrity places Montenegro in its lowest category - "very weak." A recent USAID-commissioned report conducted by Management Systems International noted that "corruption in Montenegro is pervasive at the grand and administrative levels."

¶3. (SBU) There are many factors feeding into Montenegro's record on corruption. First and foremost, it is a post-socialist transitional society with still-evolving, but fairly weak, democratic institutions. Years of conflict in the region led to sanctions and sanctions-busting, undermining law enforcement entities and enriching a criminal class. For instance, PM Djukanovic and other senior officials have been investigated by

Italian prosecutors for cigarette smuggling during the period of Milosevic's rule in Belgrade. (Several former officials have been indicted by Italian authorities, but not the PM.) Likewise, manipulation of the economic transition by well-connected people brought riches to senior politicians and a small group of oligarchs.

¶4. (SBU) In addition, Montenegro's small size (population of 650,000) and a land mass the size of Connecticut makes it inevitable that "everybody knows everybody" in some way. In fact, the use of "veze" (connections) is a widely accepted way to get things done in Montenegro. The tradition of "veze," however, contributes to an environment which reduces competition, multiplies conflicts of interest, and encourages nepotism in hiring. According to a Gallup Balkan Monitor poll conducted in September and October 2008, 53 percent of Montenegrins believe that it is acceptable to use the help of connections to get better care in the hospital, 48 percent believe it is acceptable to do so in order to get a profitable government contract, and 43 percent believe it is acceptable in order to avoid paying traffic fines.

¶5. (SBU) These factors have been exacerbated by the fact that the same two parties have been in power in Montenegro over the last decade, giving rise to bad habits that the weak and disunited opposition has had little success in checking. Further, many who wield political power are prominent in the business world as well, generating significant conflict of interest issues. By way of example, Svetozar Marovic, DPS Vice President and now the Deputy Prime Minister for Political Affairs, is reportedly linked to 22 separate companies, either directly or through family members. Common rumor has it that no significant deal can be done in Budva, the largest municipality on the coast, without Marovic's blessing. PM Djukanovic himself

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owns just under three percent of shares in the prominent local bank, Prva Banka. His brother has a nearly 47 percent stake in the bank, while his sister has a one percent stake, giving the family controlling interest. Prva Banka was the only Montenegrin bank to benefit from a GoM bailout package (40 million Euros total) as a result of the global economic crisis. Many other senior politicians have substantial business interests as well, including in state-owned companies.

Conflict of Interest

¶6. (SBU) Despite the passage of an improved Conflict of Interest Law in January (reftel A), the issue continues to plague Montenegro. The most problematic aspect is that public officials including GOM officials, judges, State Prosecutors and Deputies, and parliamentarians can serve in remunerated positions as president or members of governing and control bodies and executive directors or managers in public corporations where the state or a municipality has a stake. Also, the law appears to concern only public officials and members of their "household" (i.e. immediate family) - but not other relatives and does not limit officials who place property or assets in a blind trust. Another problem is that many public officials either fail to report their assets as required by law, or under-report them, with little or no legal consequences. Critics also question the independence of the commission charged with reviewing conflict of interest cases and have expressed concern over the absence of more severe penalties.

Perception vs. Reality

¶17. (SBU) GoM officials routinely acknowledge to us that corruption is a genuine challenge here, but they claim that the criticisms are greatly exaggerated. There is some evidence to suggest that the reality of corruption may not be as dire as the perception. Corroborating what we are frequently told anecdotally, surveys over the last year revealed that only a minority of Montenegrins claim to have actually witnessed or participated in acts of corruption. For instance, nine percent of Montenegrins acknowledged bribing an official in the previous twelve months (note: presumably including bribes to traffic police for speeding violations, a commonly-acknowledged practice). Similarly, a survey by a GoM-affiliated entity (Directorate for Anti-Corruption Initiative - DACI) found in 2008 that more than one-third of the professionals and one quarter of corporate managers believe that the judicial system in Montenegro is often or always corrupt. However, only 11 percent of parties, 8.5 percent of lawyers, and seven percent of companies reported that judicial officials had solicited or accepted bribes, illegal payments, or some other corrupt act. Nonetheless, it is notable that a greater number of citizens in Montenegro consider the use of bribes, connections, and influence acceptable than in other Balkan countries.

Weaknesses in Law Enforcement

¶18. (SBU) As in other transitional societies in the region, Montenegro's law enforcement institutions have had only limited success in prosecuting and punishing perpetrators of corrupt acts, particular at more senior levels. In the first six months of 2009, out of 111 charges of corruption brought against 173 individuals, only one verdict was handed down.

The low number of verdicts reached for corruption cases indicates, possibly, lack of political will and/or weak institutions. Other factors include:

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- The courts are overburdened and there is a backlog of cases.
- Judges are selected and dismissed by the Judicial Council, which is partly organized by Parliament-thus making the process vulnerable to politicization.
- Conflicts of interest between judges and the cases they handle are not sufficiently examined.
- Regulatory officials, such as zoning inspectors, do not routinely report discrepancies to law enforcement authorities, while the police and prosecutors rarely act on complaints by property owners and other citizens.
- The police lack expertise in conducting financial investigations, a significant impediment to anti-corruption efforts.

- A Code of Ethics, revised according to EC standards and adopted in 2008, is reputed to be poorly understood and followed.
- Until this July, the police and investigative judges, rather than the prosecutors, have been in charge of investigations. A new Criminal Procedure Code shifting control of investigations to prosecutors has just been adopted, but a smooth and efficient transition to such a system will take time.
- A law to protect "whistleblowers" is not in place.

Corruption and Construction Go Hand in Hand

¶ 9. (SBU) By all accounts, Montenegro's property boom this decade has spawned substantial corruption. According to the GOM, Montenegro has had the highest rate of foreign direct investment per capita in Europe for several years - FDI reached 685 million euro in 2008. The resultant boom in tourism and real estate has stimulated illegal construction. Much of it has proceeded without intervention by authorities or, in some cases, with the illicit complicity of authorities. Part of the problem lies with the Law on Spatial Planning, which provides mechanisms for monitoring construction projects. It provides for public access to information and documents, defines the processes for issuing permits and conducting inspections, defines insurance requirements, and much more. But the legislation is complex and confusing (even for those charged with implementing it), and the process of issuing construction permits and registering property is labyrinthine. Bribes and other acts of corruption may speed up the bureaucratic process. Inspectors and other local officials may be intimidated, even by their own neighbors.

Anti-Corruption Efforts

¶ 10. (SBU) There are, however, some bright spots to report.

-- The two most widely read dailies report on issues of corruption nearly every day, and while these articles do not always lead to action, they do sometimes have a positive effect. In one example, in September 2008, a local businessman was arrested because he was conducting construction work without any permits whatsoever. His company was illegally mining the mountain side in the town of Lipci, on Kotor Bay, hauling the stones and debris into the water, reportedly preparing to build a luxury hotel and beach resort. The illegal construction continued for nearly two months before any action was taken. One local daily (often critical of the GoM) cited the businessman's strong ties to the ruling party as a possible reason for his success evading authorities for so long. Many speculate that the

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authorities took action only because of the continuing outcry among the media and public. In another case, media reporting on excessive compensation taken by officials of the state-run railways prompted the GoM to take action (reftel B).

-- In recent months there has been a notable increase in

investigations and arrests in corruption or abuse of power cases. In February, in two separate actions, the Ulcinj Police arrested five local officials on charges of corruption related to illegal construction. At the same time, police arrested the judge from the Higher Court in Bijelo Polje under suspicion of having taken a bribe to decrease the sentence and release a man convicted of vehicular homicide. In July, the Basic Prosecutor from Podgorica pressed charges against the president of the state-owned Montenegro Airlines for abuse of position. Just few days later, the head of the Kotor office of the Real Estate Directorate, his advisor, and a secretary were arrested and charged with "abuse of official position for personal gain with corruptive elements." The same day, police inspectors for commercial crime, along with Special Prosecutor for Organized Crime Stojanka Radovic launched an investigation against the director of the State Development Fund, Dragan Lajovic, on suspicion of involvement in suspicious transactions related to the approval of loans for six companies.

-- Likely as a result of some of these public "scandals," in addition to the new Law on Conflict of Interest, the GoM has adopted new regulations on the compensation of government representatives sitting on the boards of public companies and regulatory agencies and other bodies in which state of Montenegro retains some shares (reftel B). These new regulations exclusively regulate the rules and limitations for financial compensations, while the Law on Conflict of Interest regulates who may or may not serve on these boards.

-- In 2007, the GoM created a National Commission and charged it with developing and implementing an Action Plan for the Fight against Corruption and Organized Crime. The Commission, whose members include representatives of watchdog NGOs in addition to executive and judicial authorities, regularly reviews progress at public sessions attended by USG and other international representatives. For instance, at a recent session, the GoM reported that 62 percent of Action Plan goals were fully achieved, ten percent were partially achieved, 15 percent were not achieved, and that data was incomplete for 13 percent of the goals. A watchdog NGO, however, alleged that the GoM figures were too rosy. According to that NGO, only 24 percent of the Action Plan's goals were achieved in 2008, 37 percent of the goals were partially fulfilled, 34 percent were not accomplished, and that data was incomplete for five percent of the goals.

-- The growing influence of domestic watchdogs such as MANS is also an encouraging development. MANS and Calovic are undoubtedly among the most trusted and popular of such public voices. Calovic finds local newspapers and other media ready to cover her efforts to test and counter government claims. While the local NGO sector is still far from robust -- there are only a few other NGOs as vocal and active as MANS -- its increasing strength and sophistication has helped raise public awareness of corruption. More important, a greater number of Montenegrins realize that it is possible, by means of such grass-roots initiatives, to constructively challenge the status quo.

Comment

¶11. (SBU) With only three years of independence behind it, Montenegro has instituted significant reforms and is moving smartly forward on a strongly pro-Euroatlantic path. Nevertheless, waging an effective fight against corruption will probably be the toughest hurdle it will have to cross on the path toward full membership in those institutions. It also will

be key to Montenegro's ability to court legitimate foreign investment. The country has made significant progress in

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putting in place the requisite legal and institutional framework. Now, it must use these tools more effectively, particularly in terms of demonstrating that its law enforcement system can punish offenders regardless of their background or connections.

¶12. Over the last two years, the Embassy has significantly increased both assistance resources and policy focus on rule of law issues. Initiatives include, inter alia, greater public outreach on corruption themes, expanding DOJ programs (notably the addition of a Resident Legal Advisor), an effort to establish a US-style anti-crime and corruption task force, a central U.S. role in amending key legislation, the re-focusing of some existing USAID programs on a series of anti-corruption measures, as well as numerous PD-sponsored speaker programs and democracy commission grants which address themes ranging from developing whistleblower protection to helping local governments strengthen their ability to fight corruption.

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